

NOWELL AMOROSO KLEIN BIERMAN, P.A.

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Attorneys for Third-Party Defendant,

UPS Ground Freight, Inc. d/b/a UPS

Freight, f/k/a Overnite Transportation

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

HOLTEC INTERNATIONAL CORPORATION,
a Delaware Corporation,

Plaintiff,
(RMB) (AMD)

v.

PREFERRED METAL TECHNOLOGIES, INC.,
an Illinois Corporation,

Defendant.

PREFERRED METAL TECHNOLOGIES, INC.,

Third-Party Plaintiff,

v.

UPS GROUND FREIGHT, INC., d/b/a UPS
FREIGHT, f/k/a OVERNITE
TRANSPORTATION,

Third-Party Defendant.

Civil Action No.:
09-cv-274

**NOTICE OF MOTION TO
STRIKE AFFIDAVIT OF
PREFERRED METAL
TECHNOLOGIES, INC.
SUBMITTED IN OPPOSITON
TO UPS GROUND FREIGHT,
INC.'S MOTION FOR
SUMMARY JUDGMENT
PURSUANT TO
FED.R.CIV.P. 56(e).**

TO: Sedgwick, Detert, Moran & Arnold, LLP
125 Broad Street
39th Floor
New York, New York 10004-2400
Attention: Scott L. Haworth, Esq.
Attorneys for Defendant/Third-Party Plaintiff,

Preferred Metal Technologies, Inc.

ON NOTICE TO:

Steven Kudatzky Chartered
6000 Sagemore Drive
Suite 6301
Marlton, New Jersey 08053
Attention: Steven Kudatzky, Esq.
Attorneys for Plaintiff,
Holtec International Corporation

COUNSEL:


PLEASE TAKE NOTICE that on the 22nd day of February, or as soon thereafter as counsel may be heard or the Court may schedule, Third-Party Defendant, UPS Ground Freight, Inc. d/b/a UPS Freight, f/k/a Overnite Transportation ("Third-Party Defendant"), shall move pursuant to Rule 56(e) of the Federal Rules of Civil Procedure to Strike the Affidavit of Timothy Stewart [Docket Entry # 49-4] submitted by Third-Party Plaintiff Preferred Metal Technologies, Inc. ("Third-Party Plaintiff") in opposition to Third-Party Defendant's Motion for Summary Judgment before the United States District Court for the District of New Jersey, Mitchell H. Cohen United States Courthouse, 1 John F. Gerry Plaza, Camden, New Jersey 08101, for an Order to Strike the Affidavit submitted by Third-Party Plaintiff in opposition to Third-Party Defendant's Motion for Summary Judgment because the Affidavit is not competent evidence.

No matters outside the pleadings are presented or are necessary in connection with this motion, except for the Affidavit of Timothy Stewart [Docket Entry # 49-4]. A brief in support of this motion is filed concurrently and is incorporated herein.

Oral argument is respectfully requested.

Respectfully submitted,

NOWELL AMOROSO KLEIN BIERMAN, P.A.


S/ Thomas C. Martin
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Dated: January 24, 2011